

1271 Avenue of the Americas  
New York, New York 10020-1401  
Tel: +1.212.906.1200 Fax: +1.212.751.4864  
www.lw.com

**LATHAM & WATKINS** LLP

FIRM / AFFILIATE OFFICES

Austin	Milan
Beijing	Munich
Boston	New York
Brussels	Orange County
Century City	Paris
Chicago	Riyadh
Dubai	San Diego
Düsseldorf	San Francisco
Frankfurt	Seoul
Hamburg	Silicon Valley
Hong Kong	Singapore
Houston	Tel Aviv
London	Tokyo
Los Angeles	Washington, D.C.
Madrid	

August 5, 2024

VIA ECF

The Honorable Paul A. Engelmayer  
United States District Court Judge  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *SEC v. SolarWinds Corp., et al.*, 23-cv-09518-PAE-BCM

Dear Judge Engelmayer:

Plaintiff Securities and Exchange Commission (“SEC”) and Defendants SolarWinds Corp. (“SolarWinds”) and Timothy G. Brown (collectively, “Defendants”) respectfully write to address the Court’s July 19, 2024 Order scheduling an initial pretrial conference for August 14, 2024 (ECF No. 126).

Counsel for Defendants have an immovable conflict on August 14, 2024 due to a trial in another matter, and request adjournment of the status hearing scheduled for that day. Counsel for both parties could be available telephonically on August 12, 2024.

In addition, the Order directs the parties to (1) confer with each other prior to the conference regarding settlement and each of the other subjects to be considered at a Federal Rule of Civil Procedure 16 Conference; (2) prepare a Civil Case Management Plan and Scheduling Order; and (3) prepare a joint letter providing a description of the case, any contemplated motions, and the prospect for settlement.

The parties note that a Civil Case Management Plan and Scheduling Order was previously entered in this matter on December 19, 2023 (ECF No. 36). In addition, the parties submitted on December 11, 2023 a joint letter addressing the requested topics (ECF No. 26). With respect to the current prospect for settlement, the parties note that, following the Court’s July 18, 2024 ruling on Defendants’ Motion to Dismiss the Amended Complaint, the parties have discussed pursuing settlement discussions.

The parties would appreciate clarification from the Court as to whether there are any additional materials the Court would like them to submit.

August 5, 2024  
Page 2

**LATHAM & WATKINS** LLP

Respectfully submitted,

/s/ Christopher M. Bruckmann (with consent)<sup>1</sup>

Christopher M. Bruckmann  
John J. Todor (*pro hac vice*)  
Kirsten M. Warden (*pro hac vice*)  
Benjamin Brutlag  
Lorry Stone (*pro hac vice*)  
Christopher J. Carney

**U.S. Securities and Exchange Commission**

100 F Street, N.E.  
Washington, D.C. 20549  
202-551-5986 (Bruckmann)  
202-551-5381 (Todor)  
202-551-4661 (Warden)  
202-551-5317 (Ney)  
202-551-2421 (Brutlag)  
202-551-4931 (Stone)  
202-551-2379 (Carney)  
BruckmannC@sec.gov  
TodorJ@sec.gov  
WardenK@sec.gov  
NeyW@sec.gov  
BrutlagB@sec.gov  
StoneL@sec.gov  
CarneyC@sec.gov

*Counsel for Plaintiff*

/s/ Serrin Turner

Serrin Turner  
Nicolas Luongo  
**LATHAM & WATKINS LLP**  
1271 Avenue of the Americas  
New York, NY 10020  
Telephone: (212) 906-1200  
Facsimile: (212) 751-4864  
serrin.turner@lw.com  
nicolas.luongo@lw.com

Sean M. Berkowitz (*pro hac vice*)  
Kirsten C. Lee (*pro hac vice*)  
**LATHAM & WATKINS LLP**  
330 N. Wabash Avenue, Suite 2800  
Chicago, IL 60611  
Telephone: (312) 876-7700  
Facsimile: (617) 993-9767  
sean.berkowitz@lw.com  
kirsten.lee@lw.com

*Counsel for Defendants SolarWinds  
Corp. and Timothy G. Brown*

Alec Koch  
**King & Spalding LLP**  
1700 Pennsylvania Avenue, NW  
Suite 900  
Washington, D.C. 20006  
202-737-0500  
akoch@kslaw.com

*Counsel for Timothy G. Brown*

cc: All Counsel of Record (via ECF)

---

<sup>1</sup> This electronic signature is used with consent in accordance with Rule 8.5(b) of the Court's ECF Rules and Instructions.